

**REMARKS**

With entry of this amendment, claim 132 has been cancelled, and claim 178 has been newly added. As a result, claims 130, 131, 133-137, 139-144, and 169-178 are pending. Based on the foregoing amendments and following remarks, reconsideration and allowance of this application is respectfully requested.

**Claim Objections**

Claims 132, 137, and 172 stand objected to for various formalities. Claim 132 has been cancelled, and the informalities in claims 137 and 172 have been corrected. As such, Applicant respectfully requests withdrawal of the claim objections.

**Claim Rejections-35 U.S.C. §102**

Claims 130-137, 139-144, 169, 170, 173, and 177 stand rejected under §102(e) as being anticipated by U.S. Patent No. 6,215,892 ("Douglass"). Without acquiescence that Douglass qualifies as a §102 prior art reference, and without prejudice to antedate this reference should it become necessary, Applicant makes the following comments. Claim 132 has been cancelled, thereby rendering the rejection of this claim moot, and with respect to the remaining claims, Applicant respectfully traverses this rejection, since Douglass does not disclose each and every element required by these claims.

In particular, independent claim 130 requires one of the plurality of coordinates to be selected as the fine in-focus coordinate. Douglass does not disclose this, but instead discloses fitting the data obtained at the coordinates to a second order polynomial, and then defining the peak of the fit as a fine focus position (see col. 11, lines 36-40). With respect to claim 135, the Examiner has concluded that Douglass discloses estimating an

in-focus coordinate along the focal axis as a function of a global focal plane, citing Figures 11, 12, and 15. However, Applicant can find nowhere in Figures 11, 12, and 15 and the accompanying text where a coordinate is estimated as a function of a global focal plane. Applicant respectfully requests clarification.

Thus, Applicant submits that independent claim 130, as well as the claims depending therefrom (claims 130, 131, 133-137, 139-144, 169, 170, 173, and 177), are not anticipated by Douglass, and as such, respectfully request withdrawal of the rejection of these claims.

Claim Rejections-35 U.S.C. §103

Claim 175 stands rejected under 35 U.S.C. §103, as being obvious over Douglass in view of U.S. Patent No. 7,117,098 ("Dunlay"), and claims 171, 172, and 174 stand rejected under 35 U.S.C. §103, as being obvious over Douglass in view of the publication Brenner, et al., "An Automated Microscope for Cytological Research: A Preliminary Evaluation," The Journal of Histochemistry and Cytochemistry, Vol. 24, No. 1, pp. 100-111, 1976 ("Brenner"). Applicant respectfully traverses these rejections, since no proper combination of Douglass, Dunlay, and Brenner discloses, teaches, or suggests the combination of elements required by claims 171, 172, 174, and 175.

In particular, as discussed above, Douglass does not disclose selecting one of a plurality of coordinate as a fine in-focus coordinate, as required by independent claim 130 from which claims 171, 172, 174, and 175 depend, and Dunlay and Brenner do not supplement this failed teaching. Thus, Applicant submits that claims 171, 172, 174, and

175 are not obvious over any combination of Brenner, Dunlay, and Brenner, and as such, respectfully requests withdrawal of the §103 rejection of these claims.

Newly Added Claims

Applicant submits that newly added claim 178 is supported by the specification, as originally filed (see specifically paragraphs [149]) and is patentable over the cited prior art for at least the same reasons as independent claim 130 from which it depends is patentable over the cited prior art.

Allowable Subject Matter

While Applicant graciously acknowledges the Examiner's indication that claim 176 recites patentable subject matter, this claim has not been rewritten in independent format, since it is believed that claim 130 from which it depends is patentable over the cited prior art.

Conclusion


Based on the foregoing, it is believed that all claims are allowable, and thus, a Notice of Allowance is respectfully requested. If the Examiner has any questions or comments regarding this amendment, the Examiner is respectfully requested to contact the undersigned at (949) 724-1849.

Respectfully submitted,

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